

EXHIBIT 1

INTRODUCTION

Respondent West Kern Machinery, Inc., a family owned business specializing in farm machinery, is located in Buttonwillow, California. On February 16, 2000, Respondent made a \$10,000 contribution to the Yes on Proposition 13 Committee, and thereby qualified as a “major donor committee” under the Political Reform Act (the “Act”),¹ and was required to file a semi-annual campaign statement, commonly known as a “major donor statement” disclosing its contribution. Respondent failed to file a semi-annual major donor statement disclosing its contribution of \$10,000 during the reporting period that ended June 30, 2000, thereby committing one violation of the Act.

For the purposes of this Stipulation, Respondent’s violation of the Act is stated as follows:

After qualifying as a committee under Section 82013, subdivision (c), West Kern Machinery, Inc. failed to file a semi-annual campaign statement by July 31, 2000, in violation of Section 84200, subdivision (b).

SUMMARY OF THE LAW

An express purpose of the Act, as set forth in Section 81002, subdivision (a), is to assure that the contributions and expenditures affecting election campaigns are fully and truthfully disclosed to the public, so that voters will be better informed, and so that improper practices will be inhibited. The Act therefore establishes a campaign reporting system designed to accomplish this purpose of disclosure.

One feature of the system, found at Section 84200, subdivision (b) of the Act, is that all persons who qualify as a “major donor committee” as defined in Section 82013, subdivision (c), are required to file campaign statements each year no later than July 31 for the period ending June 30, and no later than January 31 for the period ending December 31, if they have made contributions or independent expenditures, including payments to a slate mailer organization, during the six-month period before the closing date of the statement. Section 82013, subdivision (c) defines a major donor committee as any person or combination of persons who, directly or

¹ The Political Reform Act is contained in sections 81000 through 91014 of the Government Code. All statutory references are to the Government Code unless otherwise indicated. The regulations of the Fair Political Practices Commission, enacted pursuant to the provisions of the Act, are contained in sections 18000, *et seq.*, of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

indirectly, makes contributions totaling \$10,000 or more in a calendar year to, or at the behest of, candidates or committees. The term “person” is defined in Section 82047 to include corporations.

In 2000, the standard for determining what constitutes a “combination of persons” that “makes contributions,” commonly referred to as “affiliated entities,” was set forth in two Commission Opinions: *In re Lumsdon* (1976) 2 FPPC Ops. 140; and *In re Kahn* (1976) 2 FPPC Ops. 150.² According to those opinions, a combination of persons exists if they are “an alliance of persons or entities formed for the purpose of influencing voters for or against the nomination or election of one or more candidates or the passage or defeat of one or more measures. . .”

Regulation 18428, subdivision (a), as it existed in 2000, provided that the combined activities of “affiliated entities” shall be used to determine whether a monetary threshold has been met or exceeded. Affiliated entities that qualified as a major donor committee had to file one campaign statement reflecting their combined activities. (Regulation 18428, subd. (b).) Regulation 18428, subdivision (b) provided that “[t]he campaign statement shall be filed in the name of the person who established, finances, maintains, or controls the affiliate or affiliates, with an indication that the campaign statement includes the activity of these entities. The campaign statements must indicate which entity made each itemized payment.”

SUMMARY OF THE FACTS

Failure to file a semi-annual major donor statement, in violation of Section 84200, subdivision (b).

On February 16, 2000, Respondent West Kern Machinery, Inc. contributed \$10,000 to the Californians for Clean, Safe, Reliable Water, Yes on Proposition 13 Committee. Respondent therefore qualified as a major donor committee under Section 82013, subdivision (c) of the Act, and became obligated to file a semi-annual major donor statement by July 31, 2000, disclosing this contribution.

Clayton Camp, a principal owner of West Kern Machinery, Inc., explained that the \$10,000 contribution was the result of four family-owned businesses pooling contributions of \$2,500 each, and West Kern Machinery conveying those contributions, by issuing a single check in the amount of \$10,000, to the Californians for Clean, Safe Reliable Water, Yes on Proposition 13 Committee on behalf of the four businesses. The four businesses were: West Kern Machinery, a corporation; South Kern Machinery, a corporation; North Kern Machinery, a corporation; and DM Camp & Sons, a partnership. The Camp family shares ownership of all four businesses, although each family member holds a different percentage of ownership in each of the businesses. The members of the board of directors are the same for each of the corporations. DM Camp & Sons, is also comprised of the same family members that constitute the ownership of the corporations.

² The principles stated in the *Lumsdon* and *Kahn* Opinions were subsequently incorporated into Section 85311, which is now in effect.

Therefore, since the same persons direct and control the contributions made by the three corporations and the partnership, and those businesses acted together in making the single contribution of \$10,000 to the Californians for Clean, Safe Reliable Water, Yes on Proposition 13 Committee, the business were affiliated entities within the meaning of Regulation 18428, and the contributions were required to be cumulated for purposes of determining Respondent's status as a major donor committee. Because Respondent contributed \$10,000 in one calendar year to the Californians for Clean, Safe Reliable Water, Yes on Proposition 13 Committee, Respondent qualified as a major donor committee, and was subject to semi-annual campaign reporting. Therefore, Respondent should have filed a major donor statement disclosing the combined activities of West Kern Machinery, North Kern Machinery, South Kern Machinery and DM Camp & Sons.

Respondent promptly filed its major donor semi-annual statement when requested to do so by the Enforcement Division.

Respondent's failure to timely file a major donor campaign statement constitutes one violation of Section 84200, subdivision (b).

CONCLUSION

This matter consists of one count of violating Section 84200, subdivision (b) of the Act, which carries a maximum administrative penalty of two thousand dollars (\$2,000). Pursuant to the expedited Major Donor Program revised by the Commission on August 3, 2001, the approved administrative penalty for a major donor committee that promptly complies with its filing obligations upon the request of the Enforcement Division is \$400. In this matter, Respondent was unaware of its filing obligation until being contacted by an Enforcement Division investigator, and filed the statement soon thereafter. As such, a penalty of \$400 is appropriate.